

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE GOOGLE INC. COOKIE )  
PLACEMENT CONSUMER PRIVACY ) MDL No. 12-2358-SLR  
LITIGATION )

**ORDER**

At Wilmington this 17th day of April, 2013, having reviewed the transfer order issued by the United States Judicial Panel on Multidistrict Litigation ("JPML"), and having conferred with the parties;

IT IS ORDERED that the court will not entertain any further motion practice by the Eastern District of New York plaintiffs, whose actions<sup>1</sup> have been transferred to the above captioned MDL case. After rejecting the notion that the E.D.N.Y. actions should be allowed to proceed because they were asserted earlier, the JPML concluded that "these actions share sufficient common factual questions to justify their inclusion in MDL No. 2358, as currently constituted." (D.I. 82 at 1) The JPML noted in this regard that "[t]ransfer under Section 1407 carries the benefit of placing all related actions before a single judge who can: (1) allow discovery with respect to any individual issues to proceed concurrently with pretrial proceedings on common issues . . .; and (2) ensure that pretrial proceedings are conducted in a streamlined manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties." (*Id.* at

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<sup>1</sup>*Daniel Mazzone, et al. v. Vibrant Media, Inc.*, Civ. No. 12-2672 (E.D.N.Y.), and *Michael Frohberg, et al. v. Media Innovation Group, LLC, et al.*, Civ. No. 12-2674 (E.D.N.Y.).

2) Consistent with the directive of the JPML, to determine “whether and how the claims against Vibrant, MIG and WPP should progress in the MDL proceedings” (*id.*), I have determined that the pending motions to dismiss should be resolved in the instant MDL action. Although the JPML suggested that there might be circumstances under which I might decide that “the scope of the MDL should not include actions or claims against Vibrant, WPP and MIG,” thus justifying a “Section 1407 remand of such actions or claims” (*id.* at 2), I am hard pressed to envision circumstances whereby there are viable claims that survive the motions to dismiss which would then not “share sufficient common factual questions to justify their inclusion in MDL No. 2358.” (*Id.* at 1)

IT IS FURTHER ORDERED that the parties shall, if necessary, enter into an amended briefing schedule and shall otherwise complete briefing on the pending motions to dismiss. The court shall schedule oral argument on said motions once briefing is completed.

  
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United States District Judge